

A F F I D A V I T

I, Rebekah Wiles, Special Agent (SA), Federal Bureau of Investigation (FBI), being duly sworn, hereby depose and say:

**I. Introduction**

1 I have been a SA with the FBI since February 2004. I am assigned to cases involving allegations of health care fraud. The information in this affidavit is based on my personal knowledge as well as information provided to me by other law enforcement agents and agencies. This affidavit does not include each and every fact and detail known concerning this investigation, but instead sets forth only the material facts I believe are necessary to establish probable cause in support of a criminal complaint charging the following persons with the federal felony crime of health care fraud, a violation of 18 U.S.C. § 1347:

Raphael Igbokwe  
a/k/a/ Ricky Smith Jackson  
DOB xx/xx/1956

Kennedy Igbokwe  
DOB xx/xx/1978

Godwin Iloka  
DOB xx/xx/1967

Roland Godfrey  
a/k/a Roland Edomobi  
DOB xx/xx/1960

Ambrose Wotorson  
DOB xx/xx/1935

Amazair McAllister  
DOB xx/xx/1957

2 Based on the facts described in this affidavit, affiant asks the Court to conclude there is probable cause to believe that said persons have committed the crime of health care fraud, and authorize the issuance of warrants for their arrests.

## **II. Overview of the Scheme to Defraud Medicare**

3 If a physician completes a Certificate of Medical Necessity (CMN) verifying that a Medicare beneficiary is so physically disabled that he needs a motorized wheelchair in order to move about, that CMN can be used to get Medicare to pay approximately \$4,000 toward the cost of purchasing a power wheelchair. Two Kansas City area physicians, Ambrose Wotorson and Amazair McAllister, completed numerous CMNs falsely and fraudulently certifying that it was medically necessary for a Medicare beneficiary to receive a power wheelchair. Raphael Igbokwe, Kennedy Igbokwe, Godwin Iloka, and Roland Godfrey, as the owners and/or operators of several different medical supply companies, then used these false and fraudulent CMNs to submit and cause the submission of numerous false and fraudulent claims to Medicare for power wheelchairs. After receiving approximately \$4,000 from Medicare for each of these false and fraudulent claims, some persons did receive a power wheelchair. However, Iloka, Godfrey, and the Igbokwes would frequently provide the Medicare beneficiary with a “scooter” that was much less expensive than the power wheelchair they fraudulently had billed to Medicare, or in some instances would not provide the Medicare beneficiary with any type of power wheelchair or scooter.

4 In some cases, recruiters were used to solicit and transport Medicare beneficiaries to the physician offices of Wotorson and McAllister so that a fraudulent CMN could be prepared during a perfunctory and sham office visit. In most cases, the recruiters told the Medicare beneficiary that the power wheelchair would be “free” and at no cost to the Medicare beneficiary. After Medicare became suspicious that Raphael Igbokwe was submitting false and fraudulent claims

through a company he operated under the name “Prucare,” Igbokwe simply shut down the “Prucare” company, adopted the alias of “Ricky Smith Jackson” and opened a new company called “Procare” that continued submitting the exact same type of false and fraudulent power wheelchair claims to Medicare.

5 This fraud scheme has been operating in the greater Kansas City metropolitan area since at least January 2002. Between January 2002 and September 2005, the perpetrators of the above-referenced fraud scheme submitted more than \$5 million worth of false and fraudulent claims to Medicare, resulting in their actual receipt of more than \$2 million from Medicare.

### **III. The Participants in the Scheme to Defraud Medicare, i.e., Who are These Guys?**

6 **Raphael Igbokwe.** Raphael Igbokwe’s full name is Raphael Chukwuyekwu Igbokwe. According to records from the United States Bureau of Immigration and Customs Enforcement (BICE), Raphael Igbokwe was born on xxxxxxxxxx xx, 1956, in Nigeria. He entered the United States on September 28, 1983, and became a naturalized United States citizen on September 18, 1992. Since he became a United States citizen, he has been active in a variety of criminal endeavors.

Raphael Igbokwe has a criminal record with FBI No. xxxxxxxxxx; Oklahoma criminal history no. xxxxxxxxxx; and Texas criminal history no. xxxxxxxxxx. A summary of his criminal history appears below:

- a. August 28, 1995: arrested in Houston, Texas, for assault causing bodily injury (class A misdemeanor), terroristic threat (class B misdemeanor), and resisting arrest, search, or transportation (class A misdemeanor).
- b. October 10, 1995: pleaded no contest to resisting arrest while the other two charges were dropped.
- c. August 8, 2000: arrested in Oklahoma City, Oklahoma, based on his possession of counterfeit documents, possession of counterfeit identification

cards, and use of a counterfeit identification document in a commercial transaction. In his possession were the following counterfeit documents and counterfeit ID cards: Oklahoma State ID card and Canadian passport with Raphael Igbokwe's photo but issued under the alias name of "Charles Mouland;" Visa Check card, Bank of America Visa card, and Bank One check books under the alias name of "Charles Mouland;" and Swiss passport and Tennessee State ID card, both with Raphael Igbokwe's photo but issued under the alias name of "Oliver Pascal."<sup>1</sup>

As detailed in subsequent sections of this affidavit, Raphael Igbokwe did, in fact, obtain a false Missouri State identification document in the alias name "Ricky Smith Jackson" and then used that false identity during the course of the scheme to defraud Medicare.

Raphael Igbokwe also appears to reside in both Missouri and Texas. He has a current Missouri State ID card, no. xxxxxxxxxxxx, that expires on September 12, 2008, and shows a residence address of xxxxxxxxxxxxxxxxxxxx, xxxxxxxxxxxxxx, Kansas City, Missouri xxxxx. Physical surveillance of Raphael Igbokwe by law enforcement agents on November 10, 2005, confirmed that he does in fact reside at xxxxxx xxx xxxxxxxxxxxxxx, Kansas City, Missouri. Raphael Igbokwe also possesses a current Texas driver's license, no. xxxxxxxx, that expires on September 12, 2007, and shows a residence address of xxxxxxxxxxxx, Houston, Texas xxxxx. Raphael Igbokwe also has two currently active cellular phone numbers: xxxxxxxxxxxxxx in Missouri and xxxxxxxxxxxxxx in Texas.

7      **Kennedy Igbokwe.** Kennedy Igbokwe's full name is Kennedy Amaechi Igbokwe. According to records from BICE, Kennedy Igbokwe was born on xxxxxxxxx, 1978, in Nigeria. He entered the United States "without inspection" – in other words, illegally – on December 14, 1996. In 1998, Kennedy Igbokwe was granted work authorization in the United States. On May 25, 2005, Kennedy Igbokwe filed to change his immigration status to "Resident Alien" after his

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<sup>1</sup> No formal charges were filed in relation to this arrest due to an unexplained loss of the evidence, not because the charges lacked merit.

marriage to Annie Lee Igbokwe. Kennedy Igbokwe's request to change his immigration status is still pending.

Kennedy Igbokwe possesses a Missouri State ID card, no. xxxxxxxxxx, that expires on August 15, 2010, and lists his residence address as xxxxxxxxxxxxxxxx, Kansas City, Missouri xxxxx. Physical surveillance by law enforcement agents on November 10, 2005, confirms that he actually resides at xxxxxxxxxxx xxxxxxxxxxx, Kansas City, Missouri, the residence of Raphael Igbokwe. The BICE records for Kennedy Igbokwe and Raphael Igbokwe list the same person as their father, which establishes their relationship as brothers. According to information supplied in October 2005 by a bank where he had an open account, Kennedy Igbokwe uses a cellular phone with the number xxxxxxxxxxxxxxxx.

Kennedy Igbokwe was issued a Texas State driver's license, no. xxxxxxxx, which expired on August 8, 2001. Kennedy Igbokwe's residence address listed on this driver's license was xxxxxxxxxxxxxxxx, Houston, Texas xxxxx, which is the same address listed on the current Texas driver's license of Raphael Igbokwe.

8 **Godwin Iloka.** Godwin Iloka's full name is Godwin Emeka Iloka. According to records from BICE, Iloka was born on xxxxxxxxxxxx, in Nigeria. He entered the United States on August 21, 1972, and became a naturalized United States citizen on August 24, 1989.

Godwin Iloka was issued Missouri State driver's license, no. xxxxxxxx, which expires on October 2, 2010. He resides at xxxxxxxxxxxxxxxxxxxxxxxx, Lee's Summit, Missouri xxxxx. Telephone company records confirm that Godwin Iloka is associated with the following telephone numbers: xxxxxxxxxxxxxxxx, xxxxxxxxxxxxxxxx, and cellular xxxxxxxxxxxxxxxx.

Godwin Iloka is a convicted federal felon. On August 9, 2004, in the United States District Court for the Western District of Missouri, Iloka pled guilty to a single count of access

device fraud, in violation of 18 U.S.C. §1029(a)(2). On November 29, 2004, Senior United States District Court Judge Howard F. Sachs sentenced Iloka to a term of five years probation. *See* Case No. 04-00235-01-CR-W-HFS. Iloka's FBI no. is xxxxxxxxx and his United States Marshal no. is xxxxxxxx.

Godwin Iloka has used the following known aliases: Martin G. Iloka, Emera Iloka, Gowin Emeka, Jr., and Godwin Emera Iloka.

9       **Roland Godfrey.** According to records from BICE, Roland Godfrey's true name is Roland Edomobi, born on xxxxxxxxxxxx, 1960, in Cameroon. Godfrey entered the United States on October 10, 1985, and became a naturalized citizen on May 1, 1991. Godfrey possesses a current Missouri State ID card, no. xxxxxxxxxxxx, that expires on September 21, 2006. His ID card states that his residence address is xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri; however, FBI investigation in March 2005 confirmed that Godfrey does not live, and has not lived, at this address. Information obtained by the FBI at the same time suggests that Godfrey may be linked to a business located at xxxxxxxxxxxxxxxxxxxxxxxxxxxx, Houston, Texas, and using telephone number xxxxxxxxxxxxxxxx.

Roland Edomobi, a/k/a Roland Godfrey, is the brother of Michael Edomobi. According to records from BICE, Michael Edomobi entered the United States on April 17, 1990 and was deported on March 18, 2003. Following the deportation of Michael Edomobi, and as described in detail later in this affidavit, Roland Edomobi, a/k/a Roland Godfrey, took over the operation of a medical supply company known as Quest Rehabilitation Services that was being operated by Michael Edomobi prior to his deportation.

10       **Amazair McAllister.** According to his Missouri State driver's license, no. xxxxxxxxx, which expires on September 10, 2006, Amazair McAllister was born on xxxxxxxxxxxx,

1957, and resides at xxxxxxxxxxxxxxxxxxxxxxxxx, Blue Springs, Missouri xxxxx. McAllister's residential telephone number is xxxxxxxxxxxxxxxx, while the work telephone number listed on his business card is xxxxxxxxxxxxxxxx. The telephone numbers xxxxxxxxxxxxxxxx and xxxxxxxxxxxxxxxx are active facsimile numbers for McAllister.

McAllister is a licensed medical doctor (M.D.). The State of Missouri issued him a medical license, no. xxxxxxxxxxxx, on February 3, 2000, with an expiration date of January 31, 2006. McAllister's medical practice is conducted out of a building located at xxxxxxxxxxxxxxxx, Kansas City, Missouri xxxxx. Real estate records confirm that this building is owned by McAllister's father.

On March 24, 2003, McAllister's medical license was placed on probationary status for a period of two years pursuant to a settlement agreement with the Missouri State Board of Narcotics and Dangerous Drugs (BNDD). The BNDD disciplined McAllister because he submitted an application to prescribe controlled substances that contained false information. In addition, the BNDD determined that McAllister issued prescriptions in Missouri on a terminated BNDD registration and failed to comply with BNDD record keeping requirements.

11 **Ambrose Wotorson.** According to records from BICE, Ambrose Wotorson was born on xxxxxxxx, 1935, in Liberia. He entered the United States on November 28, 1980, and became a naturalized United States citizen on April 18, 1997. Wotorson resides at xxxxxxxxxxxxxxxx, Kansas City, Missouri xxxxx. Wotorson's residential telephone number is xxxxxxxxxxxx. During physical surveillance of Wotorson by federal law enforcement agents, he was observed using a wheelchair in order to move about.

Ambrose Wotorson is a licensed osteopathic physician and surgeon (D.O). The State of Missouri issued him an osteopathic medical license, no. xxxxx, on December 12, 1991, with an

expiration date of January 31, 2006. Wotorson's medical office is located at xxxxxxxxxxxx xxxxxx, xxxxxxxx, Kansas City, Missouri xxxxxx, which, as explained below, is the exact same address for Prucare Health Services.

#### **IV. The Durable Medical Equipment Companies**

12 Wheelchairs are provided to Medicare beneficiaries through what are known as durable medical equipment (DME) suppliers. In order to execute the scheme to defraud Medicare, Iloka, Godfrey, and the Igbokwes had to form and/or control medical supply companies that Medicare would recognize as DME suppliers. The following paragraphs describe the companies that Iloka, Godfrey, and the Igbokwes used as DME suppliers.

13 **Prucare Health Services.** Prucare Health Services, also known as Pru Care Health Services in some of its company documents, was incorporated in the state of Missouri on October 5, 2000. When it began operating, Prucare was located at xxxxxxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri. Prucare is currently located at xxxxxxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri. According to telephone company records, Prucare used telephone numbers xxxxx xxxxxxxx and xxxxxxxxxxxxxxxx, and facsimile number xxxxxxxxxxxxxxxx.

On November 1, 2001, Raphael Igbokwe signed a Medicare/Federal Health Care Provider/Supplier Application (CMS-855S Application) on behalf of Prucare Health Services (Prucare) which stated that Raphael C. Igbokwe was the owner, manager and president of Prucare, that Prucare's Employer Identification Number (EIN) was xxxxxxxxxxxx, that its business address was xxxxxxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri xxxxxx, and that the primary nature of its business was durable medical equipment (DME).

Before a company can obtain a (DME) supplier number from Medicare, it must pass an on-site investigation conducted by the National Supplier Clearinghouse (NSC). The records from



the December 18, 2002 on-site NSC investigation of Prucare noted that Raphael C. Igbokwe identified himself as Prucare's general manager.

On August 17, 2002, Prucare resubmitted a CMS-855S Application which contained a new business address of xxxxxxxxxxxx xxxxxxxxxxxxxx, Kansas City, Missouri xxxxx.

The NSC Identification Number for Prucare is xxxxxxxxxxxx, and the Medicare Identification Number for Prucare is xxxxxxxx.

In January 2002, Prucare began billing Medicare for power wheelchairs. On July 8, 2003, Medicare suspended payments on all Medicare claims submitted by Prucare, based on a finding that the claims submitted by Prucare involved fraud and/or misrepresentation. After Medicare stopped Raphael Igbokwe's ability to fraudulently bill Medicare through Prucare, he continued the scheme to defraud Medicare by taking on the alias name of "Ricky Jackson" and using that name to operate a durable medical supply company known as Procure.

14     **Procure Medical Supply and Equipment.** Procure Medical Supply and Equipment, also known as Procure Medical Supply, Inc. in Procure's documentation, was incorporated in the state of Missouri on May 28, 2003. The business address listed for Procure is xxxxxxxxxxxx xxxx, Kansas City, Missouri. xxxxxxxx xxxxxx is also known as xxxxxxxxxxxxxxxxxxxxxxxxx.

Procure's CMS-855S Application, dated July 21, 2003, states that: (1) its business address is xxxxxxxxxxxx xxxxxx, Kansas City, Missouri xxxxx; (2) Procure's EIN is xxxxxxxx; and (iii) Ricky Smith Jackson is Procure's owner, manager, and director.

Ricky Smith Jackson possesses Missouri State ID card, no. xxxxxxxxxxxx, that expires on August 15, 2010. The address listed on Jackson's ID card is xxxxxxxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri xxxxx, which is identical to the business address for Procure. The Missouri state ID card issued in the name of "Ricky Jackson" contains a photograph of the person who is

represented to be “Ricky Jackson.” The photograph on the “Ricky Jackson” Missouri state ID card is the photograph of Raphael Igbokwe.

In February 2004, Procure began billing Medicare for power wheelchairs, and continued doing so through February 2005. After Raphael Igbokwe had used Procure for approximately 12 months as a vehicle to fraudulently bill Medicare for power wheelchairs, another medical supply company by the name of Cardinal was used to fraudulently bill Medicare.

15 **Cardinal Healthcare, Inc.** Cardinal Healthcare, Inc., was incorporated in the state of Missouri on January 27, 2004. The address listed for Cardinal is xxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri. The telephone number for Cardinal is xxxxx xxxxxxxx and the facsimile number is xxxxxxxxxxxxxxxx.

On January 28, 2004, the day after Cardinal was incorporated in the State of Missouri, Kennedy A. Igbokwe submitted a CMS-855S application on behalf of Cardinal, and listed himself as Cardinal’s owner and managing director. This application for a supplier number was ultimately denied by Medicare because Cardinal did not meet Supplier Standard #4 that requires a supplier to fill orders from its own inventory. If the supplier does not maintain its own inventory, the supplier must show proof of a contract to purchase inventory from other companies.<sup>2</sup> Because Kennedy Igbokwe was unable to satisfy either of these alternative requirements, the application for a supplier number was denied, with leave to resubmit a proper application in the future.

On July 14, 2004, on behalf of Cardinal, Kennedy Igbokwe resubmitted a CMS-855S Application which stated that the EIN for Cardinal was xxxxxxxxxxxxxxxx, that the business address

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<sup>2</sup> 42 C.F.R. § 424.57( c) lists the twenty-one supplier standards in their entirety. In order to obtain a supplier number, a company must meet all twenty-one supplier standards which became effective on December 11, 2000.

for Cardinal was xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri xxxxx, and that Kennedy A. Igbokwe was the owner, manager, and director of Cardinal.

xx are two different names for the same street. Thus, the address for Cardinal at xxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxx is two doors down from and virtually next door to the address for Procare at xxxxxxxxxxxxxxxx xxxxxxxx. The use of xxxxxxxx xxxxxxxx on the Procare application and xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx on the Cardinal application, conceals the fact that the two businesses are essentially located at the same address.

16     **Quest Rehabilitation Services.** Quest Rehabilitation Services, also known as Quest Rehab Services in its company documentation, was incorporated in the state of Missouri on September 8, 2000. The business address listed for Quest was xxxxxxxxxxxxxxxxxxxxxxxx, xxxxxxxx, Kansas City, Missouri. The telephone number for Quest was xxxxxxxxxxxxxxxx and its facsimile number was xxxxxxxxxxxxxxxx. The Medicare supplier number for Quest was xxxxxxxxxxxxxxxx.

After a July 10, 2002 inspection at the business premises of Quest, NSC site inspectors reported that the EIN for Quest was xxxxxxxx, that Michael Edomobi was the president of Quest and he resided at xxxxxxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri xxxxx, and that Amazair McAllister was the manager of Quest. The NSC site inspectors further reported that they had personally interviewed McAllister while on site and that McAllister had identified himself as a representative of Quest. Finally, the NSC site inspectors reported that Quest had previously been located at xxxxxxxxxxxxxxxxxxxxxxxx,<sup>3</sup> xxxxxxxx, Kansas City, Missouri xxxxxxxx.

In October 2002, Quest began billing Medicare for power wheelchairs and continued doing so through April 2004. After Michael Edomobi was deported from the United States in

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<sup>3</sup> Prucare was formerly located at xxxxxxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri, as was Wotorson's medical office.

March 2003, his brother, Roland Edomobi, a/k/a Roland Godfrey, took over the operation and day-to-day management of Quest. In violation of Medicare regulations, Quest continued to submit claims to Medicare without advising Medicare of Michael Edomobi's deportation or Quest's change in management. The Certification Statement on the CMS-855S Application, signed by Michael Edomobi on May 22, 2002, states in part:

I agree to notify the Medicare contractor of any future changes to the information contained in this form within 90 days of the effective date of the change. I understand that any change in the business structure of this supplier may require the submission of a new application.

Quest does not appear to be currently operating as an active business. However, since Amazair McAllister has identified himself as a representative of Quest, and since Quest's business office and Amazair McAllister's medical office are located in the same building, *i.e.*, xxxxxxxxxxxx, which is a building owned by Amazair McAllister, your affiant asks the Court to conclude that there is probable cause to believe that business records associated with the operation of Quest will be located at xxxxxxxxxxxxt.

17     **Xcellent Medical Services.** Xcellent Medical Services, also known as Xcellent Medical and Xcellent Medical Service L.L.C., was incorporated in the state of Missouri on May 10, 2004, as a Limited Liability Corporation. Xcellent began submitting the Medicare claims at issue on August 4, 2003 – almost nine months before the company was incorporated as an LLC.

Xcellent recently relocated to xxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri, with telephone number xxxxxxxxxxxx. Xcellent was formerly located at xxxxxxxxxxxxxxxxxxxx, Raytown, Missouri xxxxxxxxx with telephone number xxxxxxxxxxxx and facsimile number xxxxx xxxxxxxx.

Xcellent's CMS-855S Application, signed December 17, 2002, provided the following information: Managing Director Godwin Iloka; EIN xxxxxxxxxx; Medicare supplier number xxxxxxxxxx; mailing address xxxxxxxxxxxxxx, Kansas City, Missouri xxxxx; and business address xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, Raytown, Missouri xxxxx. Xcellent had been located at that address since December 13, 2002.

### **V. Medicare's Motorized Wheelchair Program**

18 Medicare is a federally funded health insurance program designed primarily for the elderly and certain disabled persons. There are several components to the Medicare program but the only component that is relevant to this affidavit is referred to as Part B.

19 Part B covers the cost of physicians' services and certain other services such as durable medical equipment<sup>4</sup> and laboratory tests. Part B will pay claims submitted by medical providers who certify that they performed a reasonable and medically necessary service to an eligible patient. Claims for Part B services are billed using a CPT procedural code.<sup>5</sup>

20 The Medicare program is a typical insurance program. For Part B coverage, beneficiaries pay monthly premiums that are automatically deducted from their Social Security

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<sup>4</sup> Durable Medical Equipment is equipment which (a) can withstand repeated use, and (b) is primarily and customarily used to serve a medical purpose, and (c) generally is not useful to a person in the absence of illness or injury, and (d) is appropriate for use in the home [DMERC Region D Supplier Manual, Chapter 9, Page 3, Revised 01/01]. Durable medical equipment includes motorized wheelchairs.

<sup>5</sup> CPT Codes, which are often referred to as procedure codes, are utilized by CMS (and the carriers) in determining payments. Most procedure codes are published by the American Medical Association (AMA) in what is known as the Physicians' Current Procedural Terminology Manual, or CPT Manual (copyright by the AMA). The CPT Manual is a listing of descriptive and identifying codes for reporting medical services and procedures performed by qualified medical personnel. These procedure codes are used when filing Medicare claims to indicate which medical services the provider performed. When a service or item is not contained in the CPT Manual, local carriers create codes for providers to use.

benefits. The plan calls for the Medicare program to pay 80% of the allowed amount, and the patient (or the patient's supplemental or Medigap insurance) is responsible for paying the remaining 20%, which is referred to as the copay amount or patient responsibility.

21 Medicare contracts with private insurers to process and pay claims for durable medical equipment submitted under Part B. These entities are known as "Durable Medical Equipment Regional Carriers" or DMERCs. Each DMERC is assigned a specific geographic area within the United States and only processes claims submitted from medical equipment supply companies that do business within that geographic area.

22 This investigation concerns durable medical equipment claims submitted to CIGNA Healthcare, Nashville, Tennessee, the DMERC for Region D. CIGNA processed the claims submitted by Prucare Health Services, Procure Medical Supply, Cardinal Healthcare, Quest Rehabilitation Services and Xcellent Medical Services. According to CIGNA, these five suppliers submitted claims to CIGNA electronically, which were received by CIGNA at xxxxxxxxxxxxxx, Nashville, Tennessee xxxxx. According to CIGNA, these five suppliers were reimbursed for claims electronically as well. Electronic funds were initiated on behalf of CIGNA from its bank, JP Morgan Bank, located at xx xxxxx, Tampa, Florida, and were electronically delivered to the bank accounts of the five subject companies, all of which were located outside the state of Florida. Because funding for the Medicare program comes from federal tax dollars, the operation of the Medicare program through the payment of these claims by CIGNA necessarily affects commerce through the interstate movement of federal funds. Thus, the Medicare program qualifies as a "health care benefit program" as defined by 18 U.S.C. § 24(b).

23 A supplier is an entity or individual that provides, sells or rents durable medical equipment, prosthetics, orthotics or supplies (DMEPOS) to Medicare beneficiaries and meets the supplier standards described on a CMS-855S form.

24 The CMS-855S - Medicare Federal Health Care Provider/Supplier Enrollment Application Form - is used to ensure that the Medicare program is in compliance with all regulatory requirements. The information collected in the application is used to ensure that payments made from the Medicare trust fund are paid only to qualified DMEPOS suppliers and that the correct amounts are paid. The information also identifies whether the DMEPOS supplier is qualified to furnish health care items to Medicare beneficiaries.

25 The CMS-855S application contains a caution statement directed toward the user about providing fraudulent information.

I understand that any deliberate omission, misrepresentation or falsification of any information contained in the application or contained in any communication supplying information to Medicare, or any deliberate alteration of any text on the application form, may be punished by criminal, civil or administrative penalties including, but not limited to, the revocation of Medicare billing number(s), and/or the imposition of fines, civil damages and/or imprisonment.<sup>6</sup>

By signing the CMS-855S application, the applicant acknowledges he read and understood the penalties for falsifying information as printed on the application.

26 The completed CMS-855S application forms are submitted to the National Supplier Clearinghouse (NSC), which is the national entity contracted by Medicare that issues DME supplier authorization numbers. The NSC receives applications by mail at one of the following locations:  
xxxxxxxxxxxxxxxx, Camden, South Carolina xxxxx or xxxxxxxxxxxxxxxxxxx, Columbia, South Carolina  
xxxxxx.

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<sup>6</sup> CMS 855S Application, Revised 11/01.

27 Once applicants become suppliers, they become ultimately responsible for ensuring they understand the procedures on how to submit claims to CIGNA correctly. The DMERC Region D Supplier Manual states in part:

You must read your supplier manual and any Medicare publications, including updates to policies and procedures. You are responsible for understanding the information contained in these documents and for letting us know if you do not receive a scheduled edition of the supplier bulletin.<sup>7</sup>

Suppliers have access to all the resources necessary to legally present claims for payment. These resources are provided by CIGNA at their website, [www.cignamedicare.com](http://www.cignamedicare.com). Suppliers may also contact CIGNA telephonically for any questions they may have about these procedures.

28 A CMS-1500 - Health Insurance Claim Form - is used by providers to submit claims to the government for Medicare Part B services, and is used for most, if not all, fee-for-service health care benefit programs, whether public or private.<sup>8</sup> The CMS-1500 cautions the user that “filing a claim containing any misrepresentations, or any false, incomplete or misleading information, is subject to both criminal and civil penalties.” In submitting this claim form, the provider is certifying that his or her services were rendered in compliance with Medicare regulations, including that the services were “medically indicated and necessary.” No Medicare benefits may be paid unless the appropriate claim forms are submitted, as required by 42 C.F.R. § 424.32.<sup>9</sup>

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<sup>7</sup> DMERC Region D Supplier Manual, Chapter 14, Page 7, Revised 01/01.

<sup>8</sup> Previously known as a HCFA-1500 form.

<sup>9</sup> 42 C.F.R. § 424.32 sets forth the basic requirements for all claims, including with whom claims must be filed and by whom claims must be signed. The regulation also requires that claims be filed within specified time limits and be submitted on prescribed forms, such as the CMS-1500.



29 A CMS-843 - Certificate of Medical Necessity (CMN) Form - for motorized wheelchairs must be received by a supplier from a treating physician. Suppliers must have a faxed or copied version of the signed original CMN in their records before they can submit a claim for payment to Medicare. An original hardcopy, facsimile, photocopy, or an electronic CMN must be maintained by the supplier and be available to the DMERC on request.<sup>10</sup> The CMN cautions the user that filing a claim which contains “any falsification, omission or concealment of material fact” may subject the physician to civil or criminal liability.<sup>11</sup>

30 Power wheelchairs are categorized by Medicare by five CPT codes: K0010, K0011, K0012, K0013, and K0014. The K0011 power wheelchair is the focus of this affidavit. A K0011 power wheelchair is a standard-weight frame motorized/power wheelchair with programmable control parameters for speed adjustment, tremor dampening, acceleration control and braking.<sup>12</sup>

31 To qualify for a K0011, Medicare beneficiaries must meet three criteria as defined in the DMERC Region D Supplier Manual:

1. The patient's condition is such that without the use of a wheelchair, the patient would otherwise be bed or chair confined; and
2. The patient's condition is such that a wheelchair is medically necessary and the patient is unable to operate the wheelchair manually; and
3. The patient is capable of safely operating the controls for the power wheelchair.<sup>13</sup>

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<sup>10</sup> DMERC Region D Supplier Manual, Chapter 4, Page 1, Revised 01/01.

<sup>11</sup> CMS-843 Form, Section D, Revised 05/97.

<sup>12</sup> DMERC Region D Supplier Manual, Chapter 9, WCB - Page 1, Revised 01/01.

<sup>13</sup> DMERC Region D Supplier Manual, Chapter 9, WCB - Page 1, Revised 01/01.

The DMERC Region D Supplier Manual also states in part:

A patient who requires a power wheelchair usually is nonambulatory and has severe weakness of the upper extremities due to a neurologic or muscular disease/condition.<sup>14</sup>

32 Medicare mandates that a CMN be completed and signed by the beneficiary's treating physician before that beneficiary can qualify for a K0011 power wheelchair.<sup>15</sup> CMNs describe the required medical necessity information and can be submitted either on paper or in electronic form. The underlying and essential premise in Medicare's system for providing wheelchairs to beneficiaries is that physicians will honestly and truthfully complete CMNs.

33 A power operated vehicle (POV), CPT code E1230, is commonly referred to as a "scooter". To qualify for a scooter, the beneficiary must meet the same criteria as required for a power wheelchair with one additional requirement. The patient must be able to transfer safely in and out of the scooter and have adequate trunk stability to be able to safely ride in the scooter.<sup>16</sup>

34 Scooters are reimbursed by Medicare at a significantly lower rate than K0011 wheelchairs. The following chart compares the amount reimbursable from Medicare to DME suppliers for K0011 power wheelchairs and scooters.<sup>17</sup>

<b>Year</b>	<b>Amount Reimbursable for K0011s</b>	<b>Amount Reimbursable for Scooters</b>
2002	\$4,216.24	\$1,809.44

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<sup>14</sup> DMERC Region D Supplier Manual, Chapter 9, WCB - Page 1, Revised 01/01.

<sup>15</sup> DMERC Region D Supplier Manual, Chapter 4, Page 5, Revised 01/01.

<sup>16</sup> DMERC Region D Supplier Manual, Chapter 9, POV - Page 1, Revised 01/01.

<sup>17</sup> The amounts listed on the chart indicate the 80% reimbursement rate Medicare actually pays to suppliers. For those who qualify, Missouri Medicaid would reimburse the additional 20% to cover the entire cost of the K0011.

2003	\$4,216.00	\$1,809.44
2004	\$4,237.20	\$1,809.44
2005	\$4,098.24	\$1,809.44

## **VII. Execution of the Scheme to Defraud and Evidence of Fraudulent Conduct**

35 Federal law enforcement began investigating this fraud scheme shortly after a local physician contacted the FBI. In mid June 2002, the physician arrived at a nursing home in Kansas City, Missouri, for an appointment with a patient who suffers from Alzheimer's disease. Upon his arrival, the physician noted that his patient, who is ambulatory but requires oxygen to assist her breathing, was wheeling around the room in a power wheelchair. Since this patient was tethered by a long plastic cannula attached to a stationary oxygen generator, the patient's head would snap back when the power wheelchair reached the tubing's maximum length. The physician stated his patient did not possess the mental capacity to operate a power wheelchair. The physician advised he did not order the patient a power wheelchair nor did he sign a CMN authorizing it.

36 In early August, 2002, the physician was contacted by a physical therapist who was a contract employee at this same nursing home. The physical therapist was upset because he thought the physician had ordered a power wheelchair for a second patient who was a quadriplegic with limited mental faculties and very limited use of his hands. The physical therapist stated that using a manual wheelchair was crucial for this patient's physical therapy and was fearful the patient would regress if not forced to operate a manual wheelchair.

37 The physician advised he did not order a power wheelchair for this particular patient. Investigation revealed the power wheelchair was provided by Prucare with a CMN signed by Dr. Wotorson.

38 The physical therapist called Dr. Wotorson to inquire why he had prescribed a power wheelchair for this patient. Dr. Wotorson was abusive toward the physical therapist and admonished the physical therapist not to challenge his decision, stating the power wheelchair was medically necessary. Dr. Wotorson stated he had examined the patient in his office, which the physical therapist knew to be false because the patient had never left the nursing facility.

39 CIGNA, the DMERC for Region D, became concerned after reviewing Prucare's first day of billings. The billings reflected Prucare had provided 23 power wheelchairs in one day, which was obviously excessive. CIGNA referred this matter to the FBI for further investigation.

40 As noted above, in order to qualify for a K0011 power wheelchair from Medicare, the beneficiary must be unable to operate a manual wheelchair and must, without the power wheelchair, be bed or chair confined.<sup>18</sup> In other words, a person who can walk or is ambulatory is not eligible to receive a K0011 power wheelchair.

41 Agents from the FBI and the Office of Inspector General, Office of Investigations, Department of Health and Human Services (HHS), conducted field interviews of 33 Prucare beneficiaries who, according to Medicare records, received K0011s from Prucare. These Medicare records also established that Prucare was reimbursed for the K0011s. The interviews revealed that many of the beneficiaries were obviously not medically qualified to receive CMNs for K0011s and/or had received scooters instead.

42 Examples of investigative details follow below:

- a. Eighteen (18) Prucare beneficiaries were observed walking or told agents they were ambulatory.
- b. Six (6) Prucare beneficiaries were given scooters instead of K0011s.

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<sup>18</sup> DMERC Region D Supplier Manual, Chapter 9, WCB - Page 1, Revised 01/01.

- c. Eight (8) Prucare beneficiaries stated they never received a physician examination before they got the wheelchair or scooter.
- d. One (1) Prucare beneficiary stated that while she knew Dr. Wotorson had prescribed the power wheelchair, she had never met with him.
- e. One (1) Prucare beneficiary did not receive a wheelchair or a scooter.
- f. No Prucare beneficiaries paid any copays for wheelchairs, scooters, or physician examinations, in violation of Medicare regulations.

43 Agents from the FBI and HHS conducted field interviews of 36 Procure beneficiaries who, according to Medicare records, received K0011s from Procure. These records also established that Procure was reimbursed for the K0011s. The interviews revealed that many of the beneficiaries were obviously not medically qualified to receive CMNs for K0011s and/or had received scooters instead.

44 Examples of investigative details follow below:

- a. Twenty-eight (28) Procure beneficiaries were observed walking or told agents they were ambulatory.
- b. Twenty (20) Procure beneficiaries were given scooters instead of K0011s.
- c. One (1) Procure beneficiary stated he never received a physician examination before he got the wheelchair or scooter.
- d. One (1) Procure beneficiary stated that during his physical exam to obtain the CMN, we walked around for Dr. Wotorson, the referring physician.
- e. One (1) Procure beneficiary contacted Procure to obtain a lift chair. A few weeks after receipt of the lift chair, the beneficiary received a power wheelchair even though she did not request one.
- f. No Procure beneficiaries paid any copays for wheelchairs, scooters, or physician examinations, in violation of Medicare regulations.

45 Agents from the FBI and HHS conducted field interviews of 56 Cardinal beneficiaries who, according to Medicare records, received K0011s from Cardinal. These records also established that Cardinal was reimbursed for the K0011s. The interviews revealed that many of the beneficiaries were obviously not medically qualified to receive CMNs for K0011s and/or had received scooters instead.

46 Examples of investigative details follow below:

- a. Forty-nine (49) Cardinal beneficiaries were observed walking or told agents they were ambulatory.
- b. Forty-two (42) Cardinal beneficiaries were given scooters instead of K0011s.
- c. Three (3) Cardinal beneficiaries stated they never received a physician examination before they got the wheelchair or scooter.
- d. Six (6) Cardinal beneficiaries walked for the referring physician during the physical exam.
- e. No Cardinal beneficiaries paid any copays for wheelchairs, scooters, or physician examinations, in violation of Medicare regulations.

47 Agents from the FBI and HHS conducted field interviews of 75 Quest beneficiaries who, according to Medicare records, received K0011s from Quest. These records also established that Quest was reimbursed for the K0011s. The interviews revealed that many of the beneficiaries were obviously not medically qualified to receive CMNs for K0011s and/or had received scooters instead.

48 Examples of investigative details follow below:

- a. Sixty-one (61) Quest beneficiaries were observed walking or told agents they were ambulatory.
- b. Twenty-one (21) Quest beneficiaries were given scooters instead of K0011s.

- c. Eighteen (18) Quest beneficiaries stated they never received a physician examination before they got the wheelchair or scooter.
- d. One (1) Quest beneficiary (Dr. McAllister's grandmother) did not receive a wheelchair or a scooter.
- e. One (1) Quest beneficiary stated she did not want a power wheelchair, asked the delivery personnel not to deliver it, and has never used the power wheelchair that was delivered. Since its delivery, the power wheelchair has been abandoned on the front porch of the owner's home. The same beneficiary also stated the referring physician (Dr. McAllister) entered her home without her permission.
- f. No Quest beneficiaries paid any copays for wheelchairs, scooters, or physician examinations, in violation of Medicare regulations.

49 Agents from the FBI and HHS conducted field interviews of 11 Xcellent beneficiaries who, according to Medicare records, received K0011s from Xcellent. These records also established that Xcellent was reimbursed for the K0011s. The interviews revealed that many of the beneficiaries were obviously not medically qualified to receive CMNs for K0011s and/or had received scooters instead.

50 Examples of investigative details follow below:

- a. Six (6) Xcellent beneficiaries were observed walking or told agents they were ambulatory.
- b. Three (3) Xcellent beneficiaries were given scooters instead of K0011s.
- c. Five (5) Xcellent beneficiaries paid no copayments for wheelchairs, scooters, or physician examinations, in violation of Medicare regulations.

## **VII. Known Patterns of Fraud**

51 Medicare payments for power wheelchairs dramatically increased nationwide from \$10 million in 1994 to \$1.2 billion in 2003, with a 300 percent increase occurring between 2001 and

2003. As a result, federal law enforcement agencies throughout the United States have pursued numerous investigations and prosecutions pertaining to fraudulent claims for power wheelchairs. Review of the K0011 claims submitted by the subject suppliers match known patterns of fraud as discovered through similar DME investigations conducted by the FBI and HHS.

52 The first pattern of fraud noted was the majority of alleged referrals came from only two physicians. Collectively, the five subject suppliers submitted 989 claims for K0011s to Medicare. Of those 989 claims, 739 were referred by either Dr. Wotorson or Dr. McAllister. This represents 75% of all claims submitted by subject suppliers. Legitimate DME operations exhibit a more random pattern of referrals where there are nearly as many referring physicians as there are customers who walk into the supply store.

53 The second pattern of fraud was a sudden onset of high-volume Medicare business by the subject suppliers within a small period of time despite the fact that most of the suppliers had been incorporated six months to two years prior.<sup>19</sup>

54 The third pattern of fraud was virtually all claims submitted by the subject suppliers were concentrated into one CPT code, K0011, which is known to be heavily abused by fraudulent DME operations. The subject suppliers submitted 989 claims on behalf of Medicare beneficiaries, and the beneficiaries tended to be heavily concentrated in the same geographic location, all of whom allegedly “needed” expensive, rarely ordered K0011 power wheelchairs.

55 The table below details the billings submitted to Medicare by each of the subject suppliers. The total unique billings include all CPT codes, including K0011, billed to Medicare. According to CIGNA, when a K0011 claim is submitted to Medicare, a claim for a K0011 battery is typically submitted as a battery for the K0011 does not come with the power wheelchair.

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<sup>19</sup> A time line showing this information for each entity is attached as Exhibit 1.



<b>Supplier</b>	<b>Total Unique Billings</b>	<b>Total K0011 Billings</b>	<b>K0011s as % of Unique Billings</b>	<b>Total Billings for Wheelchair Batteries</b>	<b>K0011s and Batteries as % of Unique Billings</b>
Prucare	413	229	55%	170	97%
Procare	442	213	48%	213	96%
Cardinal	456	228	50%	228	100%
Quest	984	265	27%	266	54%
Xcellent	3818	54	<2%	65	3%

56 Legitimate DME supply companies have a diverse business that includes many other DME services such as bandages, braces, canes, and hundreds of other basic medical supplies. In rare instances, a legitimate DME supplier will concentrate efforts in one area such as wheelchairs, but these operations generally have large store fronts, extensive local advertising, and a network of contacts with rehabilitation centers where similarly-afflicted patients are concentrated. The subject suppliers do not fit this description, as they especially relied on “word-of-mouth” referrals between Medicare beneficiaries or “recruiters” hired by the subject suppliers.

57 A fourth pattern of fraud illustrated by the subject suppliers and subject physicians was the manner in which the Medicare beneficiaries were “recruited.” The subject suppliers solicited Medicare beneficiaries who may or may not have wanted, and certainly did not qualify for, K0011 power wheelchairs. Beneficiaries - who were often approached by the owners of the subject supplier companies, the subject physicians, and recruiters hired by subject suppliers - were solicited for power wheelchairs in a variety of places, including in stores, in multi-purpose centers, on busses, and in the beneficiaries’ residences.

58 This recruitment technique is the opposite of the usual progression of events where an examining, treating physician first determines the medical necessity of the wheelchair. Then, the

beneficiary contacts one of numerous wheelchair suppliers – some physicians provide a list of local suppliers – to order a wheelchair.

59 In this instance, however, the subject owners or recruiters transported many of the beneficiaries interviewed to the subject physicians' offices for purported examinations.

60 During interviews with beneficiaries, agents discovered that when the subject supplier delivered the K0011 or scooter to the beneficiary, the delivery person often asked the beneficiary to provide names of additional individuals who may want a power wheelchair or scooter. On occasion, the beneficiary was offered money for each individual he/she was able to provide.

61 Additional details obtained from the beneficiary interviews are set forth below.

62 **Prucare.** One (1) Prucare beneficiary learned about Prucare from Raphael Igbokwe, who was going door-to-door in the beneficiary's apartment building to see if residents wanted power wheelchairs.

63 One (1) Prucare beneficiary stated Raphael Igbokwe came to the beneficiary's apartment without invitation, gave the beneficiary a K0011 without a physician's examination, and simply told the beneficiary that he needed the K0011. Raphael Igbokwe continued to stop by the beneficiary's apartment twice a month, and on one occasion, gave this beneficiary a handwritten note containing a list of additional DME equipment Igbokwe felt the beneficiary needed. Igbokwe told the beneficiary to give the note to his primary care physician.

64 Two (2) Prucare beneficiaries stated Raphael Igbokwe approached at multi-purpose centers (senior citizen centers).

65 One (1) Prucare beneficiary was recruited at a Thriftway store located on xx xxxxxx, Kansas City, Missouri, by a man who told the beneficiary that he looked like he needed a new wheelchair.

66 One (1) Prucare beneficiary was recruited while utilizing a motorized electric shopping cart at Wal-Mart.

67 One (1) Prucare beneficiary stated she first met Dr. Wotorson and learned of Prucare through a recruitment program at her former residence located at xxxxxxxxxxxxxxxxxxxx, Kansas City, Missouri, which is located one block from Prucare.

68 **Procure.** Raphael Igbokwe told a Procure beneficiary to send anyone to him who needed a power wheelchair. The beneficiary received money from Igbokwe for the people she sent to him. After bringing in some of them, however, Igbokwe told her not to bring people with HMO insurance anymore as the HMOs would not pay for the wheelchairs.

69 Three (3) Procure beneficiaries received power wheelchairs after being solicited in their apartment building.

70 Two (2) Procure beneficiaries received power wheelchairs after being recruited at a multi-purpose center.

71 One (1) Procure beneficiary was given three business cards from Raphael Igbokwe bearing his name and the address of Prucare and told the beneficiary to give them to anyone she knew who might need a power wheelchair.

72 One (1) Procure beneficiary was told she would receive \$50 if she sent patients/customers to the referring physician.

73 Fourteen (14) Procure beneficiaries stated they were provided transportation rides to and from the referring physician's examination by Raphael Igbokwe, "Leo",<sup>20</sup> or a representative from Prucare or Procure.

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<sup>20</sup> Although his last name could not be established through beneficiary interviews, "Leo" was identified as a recruiter who worked for Prucare, Procure, Cardinal, and Xcellent. When soliciting Medicare beneficiaries, Leo refers to himself as "Leo, the Wheelchair Man."

74 **Cardinal.** Nine (9) Cardinal beneficiaries learned about the wheelchair company and the referring physician from “Jimmy”.<sup>21</sup> One of these beneficiaries was approached by “Jimmy” outside of Truman Medical Center who asked the beneficiary if he would like a scooter.

75 Nine (9) Cardinal beneficiaries were provided transportation to the referring physician’s “exam” by “Jimmy.”

76 Eleven (11) Cardinal beneficiaries were provided transportation to the referring physician's exam from a courtesy shuttle not provided by “Jimmy.”

77 One (1) Cardinal beneficiary stated the company that provided her with her scooter also provided her with promotional fliers for power wheelchairs to give to her friends.

78 **Quest.** Most Quest beneficiaries were recruited by unknown individuals who knocked on their front doors to ask them if they wanted power wheelchairs or were referred to Quest by friends or relatives.

79 One (1) Quest beneficiary received her power wheelchair after visiting her friend’s home where Dr. McAllister told the beneficiary she looked like she was eligible for a power wheelchair.

80 Many Quest beneficiaries were contacted telephonically or visited in their home by Dr. McAllister, who told them they could receive a power wheelchair.

81 One (1) Quest beneficiary saw a power wheelchair delivered to her neighbor and asked the delivery person about how to get one for herself.

82 One (1) Quest beneficiary was telephonically contacted and transported by a man who took him and his spouse to the Social Security Office so they could apply for a new Medicare

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<sup>21</sup> Through investigation, agents identified “Jimmy” as James (Jimmy) Gravely. His involvement is discussed in detail below.

card because they had lost theirs. After stopping there, the man drove them to an office located on xxxxxxxx, Kansas City, Missouri, near the police station where he was examined by a doctor. The location described by this beneficiary matches the location of Prucare.

83     **Xcellent.** One (1) Xcellent beneficiary learned of Xcellent through brochures left in the lobby of his apartment complex.

84     One (1) Xcellent beneficiary was asked to refer other individuals who wanted a power wheelchair.

85     One (1) Xcellent beneficiary was recruited by Leo.

86     **Jimmy Graveley - Recruiter.** Jimmy Gravely, a recruiter hired by Quest, Prucare, and Cardinal, was interviewed by the FBI. Details of this interview are cited below.

87     Gravely first became involved in the wheelchair business when his mother had a stroke on October 26, 2003. Gravely met an unidentified male on a bus who advised him to go to a location on xxxxxxxxx in Kansas City, Missouri (Prucare), to get a wheelchair for his mother.

88     Although they visited Prucare's office to obtain the power wheelchair, Quest delivered Gravely's grandmother's wheelchair. The Quest representative and Gravely had a discussion and decided that Gravely would start recruiting others to obtain wheelchairs or scooters.

89     Gravely worked for Roland, Quest's owner, in May or June of 2004. He recruited individuals for Quest for approximately one week. Roland paid Gravely \$50 per individual, which Gravely felt was not enough money. He reported he recruited approximately six people for Quest, but he stopped working for them because he felt he was not being paid enough.

90 After Gravely left Quest, he met Victoria, a recruiter for Primecare, in February or March of 2005 who introduced him to “Ken,” the owner of Primecare.<sup>22</sup> Gravely recruited approximately fifteen individuals for Primecare over the course of two or three weeks. Gravely was supposed to be paid approximately \$50 to \$75 per individual he recruited to receive a wheelchair. Gravely eventually left Primecare because Ken was not paying him enough.

91 In May or June of 2005, Gravely went to work recruiting for Raphael at Prucare. He was instructed that before he took beneficiaries to the Prucare physician, he must first call the Prucare office to see if Medicare would approve the beneficiary for a power wheelchair. Raphael also instructed him to take recruits to Dr. Wotorson or Dr. McAllister for a “CMN examination.”

92 Once approved, Gravely picked up his recruit and drove him or her to see Dr. McAllister. Once Dr. McAllister signed the CMN, McAllister’s secretary faxed the CMN to Prucare.

93 Gravely reported that Raphael and Kennedy advised him not to speak about the recruitment business over the telephone.

94 According to Gravely, Dr. McAllister was located at the Quest building on Mondays, Wednesdays, and Fridays, from 1:00 p.m. to 4:00 p.m. Each individual Gravely recruited was examined by Dr. McAllister. A small number of these examinations were performed while Gravely was present in the room and these examinations lasted approximately 45 minutes.

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<sup>22</sup> Information received from CIGNA on October 25, 2005, identified Primecare as yet another DME supplier associated with the subject physicians. Primecare submitted 101 claims for K0011s from May 7, 2004 to September 29, 2005. Of these 101 submitted K0011 claims, 75 claims listed Dr. McAllister as the referring physician while 20 claims listed Dr. Wotorson. Primecare is located at xxxxxxxxxxxx xxxxxx, xxx xxx, Kansas City, Missouri xxxxx - which is in the same building as Prucare. The person introduced to Gravely as “Ken” is believed to be Kenneth Agugua, DOB xxxxxxxx, 1959, Missouri State ID card no. xxxxxxxxx, who resides at xxxxxxxxxxxx xxxxxx, Kansas City, Missouri xxxxx.

95 Gravely estimated that 70% to 75% of the individuals seen by Dr. McAllister eventually received a power wheelchair. Gravely added that even individuals who could walk without any problem received power wheelchair prescriptions from Dr. McAllister. Gravely stated he had taken at least four or five people who had no medical problems whatsoever to get wheelchairs from Prucare.

96 Gravely was advised by Raphael Igbokwe that individuals with private insurance would not qualify for a power wheelchair from Prucare, and only individuals who had Medicare Part A and Part B would qualify.

97 At some point, Gravely asked Raphael how those individuals with no medical problems could qualify for a power wheelchair. Raphael told Gravely not to worry about it as long as the doctor had approved it.

98 While recruiting for Prucare, Gravely was paid \$100 per referral and later was paid \$200 per referral. Gravely was normally paid in cash at the xxxxxxxxxxxxxxxxxxx office (Quest building) by Raphael or Kennedy.

99 Around June of 2005, Gravely was told by Raphael that they were no longer billing under Prucare's supplier number, they were switching to "Cardinal." Gravely advised he recruited approximately 100 individuals for Cardinal since that time.

100 Gravely, however, stated he was never paid at the Cardinal office. He normally was paid at the Prucare office even for individuals recruited for Cardinal. Gravely saw no difference between the operations of Prucare and Cardinal and did not think they were different companies.

101 Gravely observed that Raphael and Kennedy traveled to Texas every couple of months and were gone for weeks at a time.<sup>23</sup>

102 Acting upon Victoria's (another recruiter) advice, Gravely put up flyers at HUD housing facilities in Kansas City, Missouri, at the following addresses: xxxxxxxxxxxx; xx and xxxxxxxxxxxx; and xx and xxxxxxxxxxxx. In effect, the flyers stated, "Call me if you want a free scooter." Gravely did not solicit at nursing homes.

103 Gravely identified Leo "the wheelchair man," and Victoria as recruiters for Raphael.

### **VIII. Connections Between the Investigative Targets**

104 Investigators have documented numerous connections and relationships between the subjects, the subject physicians, and the subject companies. Examples of these connections are detailed below.

105 **Prucare (Igbokwe) and Quest (Godfrey).** While Prucare was placed on suspension by Medicare, two Quest beneficiaries, who had been examined at the Prucare office by Dr. Wotorson, received power wheelchairs from Quest.

106 Another Quest beneficiary stated he was both "examined" and referred for his power wheelchair by Raphael Igbokwe, owner and manager of Prucare, although the claim was submitted by and reimbursed to Quest.

107 An FBI agent visited the building where Quest and McAllister's offices were located and recovered several business cards on display including a card for Amazair McAllister, M.D., and Prucare Health Services, Inc., Raphael Igbokwe, Managing Director.

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<sup>23</sup> A review of Prucare's banking records revealed that 35 airline tickets were purchased from Southwest Airlines and two tickets from American Air. In addition, Raphael Igbokwe personally purchased 19 tickets from Southwest Air. Most travel appeared to be to/from Kansas City, Missouri and Houston, Texas.



108 A Quest beneficiary stated during an interview that she was referred to Quest by Raphael Igboke. Quest billed and was paid by Medicare for this beneficiary's wheelchair.

109 **Prucare and Xcellent.** The purchase/rental agreement attached to the Prucare site investigation appears to be a document taken from Excellent Medical Services - a company based in Houston, Texas - in which Prucare's name has been transposed on the top of the document. Excellent Medical Services is owned by Godwin Iloka's brother-in-law, Bernard Okonkwo.<sup>24</sup>

110 Beneficiaries from Prucare and Xcellent were "recruited" by the same individual, *i.e.*, "Leo the Wheelchair Man." During an interview, one beneficiary stated Leo had worked for Raphael. This same beneficiary, however, was contacted by Leo at a later time. At that time Leo told the beneficiary that Leo now worked for Xcellent Medical Services, located at xxxxxxxx xx xxxxxx, Raytown, Missouri xxxxx, telephone number xxxxxxxxxxxxxxxx.

111 **Prucare, Procure, and Cardinal.** Prucare, Procure, and Cardinal are essentially the same operation involving the same subjects but different addresses. Details are listed below.

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<sup>24</sup> On March 27, 2000, a complaint was filed with the FBI, Houston Division, against Bernard Okonkwo, Excellent Medical Services. The complainant alleged Okonkwo approached the complainant on March 3, 2000 to propose a business transaction. The complainant stated Okonkwo obtained the complainant's provider number and personal information. After obtaining this information, Okonkwo disappeared. The complainant was concerned Okonkwo would use the complainant's provider number and personal information for illegal purposes. Investigation conducted by the FBI on April 23, 2003, documented Bernard "Okowkevo", dba Excellent Medical Services, Houston, Texas, telling an individual about how he ("Okowkevo") conducts medical business. Despite variation in phonetic spelling, it is believed "Okowkevo" and Okonkwo to be the same individual. Okonkwo told the individual that he buys medical equipment and then finds disabled people to purchase it; however, Okonkwo gives the "patient" money, rather than their motorized wheelchair. For example, the patient may receive \$400-\$500, the "Doctor" who prescribes the medical equipment may receive \$700-\$800, and Okonkwo keeps the remainder of the money, which could total thousands of dollars. Okonkwo is able to commit this type of criminal activity because he claims to have contacts in the medical community.



masks the fraudulent activity, making it more difficult for the DMERC to detect the excessive billings.

115 These three providers are actually conducting business from Prucare's location, xxx xxxxxxx xxxxxx, Kansas City, Missouri, even though the owners of Prucare and Cardinal have attested on their CMS-855S Applications that their place of operation is xxxxxxxxxxxxxx and xxxxxxxxxxxxxx respectively.

116 The DMERC Region D Supplier Manual states in part:

Suppliers are obligated to maintain a physical facility on an appropriate site. The physical facility must contain space for storing business records including the supplier's delivery, maintenance, and beneficiary communication records.

117 Prucare and Cardinal set up "storefront" office space in anticipation of NSC site inspections. After passing the inspections and obtaining supplier numbers, they effectively abandoned these "storefronts" and conducted the majority of their "business" out of the original DME supplier office used by Prucare. Numerous Prucare beneficiaries interviewed by agents stated they received wheelchairs or scooters from Prucare, visited Prucare's office, or had some contact with Raphael.

118 "Ricky Smith Jackson" allegedly ran Prucare, but investigation revealed that Jackson was merely an alias for Raphael Igbokwe. Raphael Igbokwe received checks totaling \$42,000 from Prucare.

119 Raphael Igbokwe gave three business cards bearing Prucare's name and address to one Prucare beneficiary and told her to give them to anyone she knew who might want a power wheelchair.

120 A Procure beneficiary selected the scooter she wanted from the collection of power wheelchairs and scooters Raphael Igbokwe had in the Prucare office.

121 A Procure beneficiary stated while at the examination with Dr. McAllister, she selected the color of scooter she desired.

122 Bank records revealed Prucare paid \$6,000 of rent for Procure.

123 Raphael Igbokwe is also closely associated with Cardinal. Interviews with Medicare beneficiaries revealed that Raphael delivered wheelchairs and scooters to Cardinal beneficiaries.

124 Kennedy Igbokwe is believed to be Raphael's brother. Gravely indicated that they were brothers and BICE records show their fathers have the same first name.

125 Funds from Prucare's business account were used to make rental payments to Polo Run and Location One for what appears to be an apartment for Kennedy Igbokwe and office space respectively.

126 Physical surveillance of Kennedy Igbokwe on November 9, 2005, revealed Kennedy, driving a tan mini-van with a temporary Texas tag registered to Elite Transport - a company owned by Kennedy, leaving Cardinal and driving directly to Dr. McAllister's office - Quest's former location. Kennedy was then observed leaving Dr. McAllister's office, driving to the bank, driving back to Dr. McAllister's office, driving to Prucare's location, and then to the home of Dr. Wotorson.

127 Physical surveillance of Dr. Wotorson on November 9, 2005, revealed a green mini-van, bearing the identical temporary Texas tag registered to Kennedy Igbokwe as the tan mini-van Kennedy was observed driving, picked up Dr. Wotorson at his residence and drove him to Prucare's office building.

128 **Prucare and Wotorson.** In February 2004, Prucare made payments on behalf of Dr. Wotorson to the Missouri State Board of Registration for the Healing Arts in the amount of

\$250 and to the Missouri Society of the American College of Osteopathic Family Physicians in the amount of \$325.

129 Dr. Wotorson's office is located in the same suite and building as Prucare. He distributed a business card to a beneficiary identifying himself with Prucare and listing Prucare's address.

130 A Prucare beneficiary stated she was approached at a multi-purpose center by Raphael Igbokwe who sent her to the referring physician, Dr. Wotorson. Another Prucare beneficiary learned about Prucare through his physician, Dr. Wotorson. This beneficiary stated he went to Dr. Wotorson's office to pick up his wheelchair.

131 **Procure and Wotorson.** One Procure beneficiary was shown several power wheelchairs and scooters at Dr. Wotorson's office and was asked to select the one she preferred.

132 **Cardinal and McAllister.** One Cardinal beneficiary stated Dr. McAllister delivered his scooter.

133 **Quest and McAllister.** Dr. McAllister was paid by Quest over \$70,000 for consulting fees and rent.

134 Dr. McAllister owns the building where Quest was located.

135 One Quest beneficiary was referred to Quest by Dr. McAllister.

136 Attached as Exhibit 2 is a chart that summarizes some of the more obvious connections between the various entities and persons who are investigative targets.

### **IX. Billing Summary**

137 Agents obtained information concerning all Medicare and Missouri Medicaid K0011 claims and billings for the subject suppliers using their supplier numbers. The charts below reflect

the total amounts reimbursed to the subject supplier for K011s. Agents also calculated the percentage referral rate for the subject physicians.

### **Prucare**

138 A summary of Prucare's billing data for K0011s is listed in the chart below.

<b>PRUCARE</b>	<b>Medicare</b>	<b>Medicaid</b>
Date of First Submitted Claim	01/24/2002	04/30/2002
Date of Last Submitted Claim	04/07/2003	10/11/2002
# of Claims Submitted	229	11
# of Claims Reimbursed	81	0
Amount Submitted	\$1,185,817.50	\$52,968.70
Amount Reimbursed	\$340,773.77	\$0.00

139 Dr. Wotorson was the referring physician for 66% (150 out of 229) of the K0011 claims submitted by Prucare while Dr. Abanishe referred 26 % (60 out of 229).<sup>27</sup>

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<sup>27</sup> See footnote 25 for information about Dr. Abanishe, who is deceased.

**Procure**

140 A summary of Procure's billing data for K0011s is listed in the chart below.

<b>PROCARE</b>	<b>Medicare</b>	<b>Medicaid</b>
Date of First Submitted Claim	02/16/2004	02/20/2004
Date of Last Submitted Claim	02/04/2005	02/04/2005
# of Claims Submitted	213	79
# of Claims Reimbursed	110	67
Amount Submitted	\$1,272,500.00	\$81,244.19
Amount Reimbursed	\$463,183.29	\$71,591.79

141 Dr. Wotorson was the referring physician for 92% (195 out of 213) of the K0011 claims submitted by Procure while Dr. McAllister referred 2% (3 out of 213).

**Cardinal**

142 A summary of Cardinal's billing data for K0011s is listed in the chart below.

<b>CARDINAL</b>	<b>Medicare</b>	<b>Medicaid</b>
Date of First Submitted Claim	12/20/2004	12/20/2004
Date of Last Submitted Claim*	09/15/2005	09/23/2005
# of Claims Submitted	228	144
# of Claims Reimbursed	203	122
Amount Submitted	\$1,362,000.00	\$143,869.92
Amount Reimbursed	\$831,519.40	\$121,329.60

\*Represents most recent record to date as Cardinal is still submitting claims to both Medicare and Medicaid.

143 Dr. McAllister was the referring physician for 95% (217 out of 228) of the K0011 claims submitted by Cardinal while Dr. Wotorson referred 4% (9 out of 228).

**Quest**

144 A summary of Quest's billing data for K0011s is listed in the chart below.

<b>QUEST</b>	<b>Medicare</b>	<b>Medicaid</b>
Date of First Submitted Claim	10/02/2002	02/03/2003
Date of Last Submitted Claim	04/24/2004	02/04/2004
# of Claims Submitted	265	62
# of Claims Reimbursed	140	54
Amount Submitted	\$1,329,897.50	\$62,475.53
Amount Reimbursed	\$588,682.36	\$57,045.53

145 Dr. McAllister was the referring physician for 57% (151 out of 265) of the K0011 claims submitted by Quest while Dr. Wotorson referred 3% (8 out of 265).

**Xcellent**

146 A summary of Xcellent's billing data for K0011s is listed in the chart below.

<b>XCELLENT</b>	<b>Medicare</b>	<b>Medicaid</b>
Date of First Submitted Claim	08/01/2003	08/01/2003
Date of Last Submitted Claim	04/26/2005	12/06/2003
# of Claims Submitted	54	12
# of Claims Reimbursed	20	9
Amount Submitted	\$349,200.00	\$12,632.70
Amount Reimbursed	\$84,029.68	\$9,507.40

147 Dr. McAllister was the referring physician for 7% (4 out of 54) of the K0011 claims submitted by Xcellent while Dr. Wotorson referred 4% (2 out of 54).



**X. Preliminary Loss Amounts**

148 Loss amounts to Medicare and Missouri Medicaid fall into two different categories: up-coding (providing a scooter instead of the K0011) and fraudulent CMNs. The tables below contain the loss amounts for each subject supplier in both categories.<sup>28</sup> Table #1 summarizes losses to Medicare. Table #2 summarizes losses to Missouri Medicaid.

Table #1 - PRELIMINARY MEDICARE LOSSES

<b>Subject Supplier</b>	<b>Up-Coding</b>	<b>Fraudulent CMN</b>
Prucare	\$29,513.68	\$50,514.88
Procare	\$122,214.88	\$29,580.40
Cardinal	\$176,356.00	\$69,444.56
Quest	\$92,512.00	\$172,410.61
Xcellent	\$12,711.60	\$16,843.60
<b>Total</b>	<b>\$429,070.96</b>	<b>\$338,794.05</b>

Table #2 - PRELIMINARY MISSOURI MEDICAID LOSSES

<b>Subject Supplier</b>	<b>Up Coding</b>	<b>Fraudulent CMN</b>
Prucare	\$0.00	\$0.00
Procare	\$19,360.66	\$2,118.60
Cardinal	\$26,849.30	\$11,382.64
Quest	\$9,486.00	\$13,751.53
Xcellent	\$2,118.60	\$3,177.90
<b>Total</b>	<b>\$57,814.56</b>	<b>\$30,430.67</b>

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<sup>28</sup> These amounts represent actual, confirmed losses determined through interviews of beneficiaries conducted by the FBI and HHS. Although some beneficiaries that received scooters were ambulatory, their loss was included in the up-coding category, not in the fraudulent CMN category.

149 There is probable cause to believe that most if not all billings submitted by the subject companies are fraudulent. Table #3 summarizes the total amount of claims submitted by the subject suppliers even though they were not reimbursed by Medicare and Medicaid and the total amount each supplier was reimbursed by Medicare and Medicaid. The submitted claims information is relevant because it shows the attempted or intended losses that the suppliers sought to inflict upon Medicare and Medicaid.

Table #3 - TOTAL LOSS AMOUNTS

<b>Subject Supplier</b>	<b>Amount Submitted to Medicare</b>	<b>Amount Reimbursed by Medicare</b>	<b>Amount Submitted to Missouri Medicaid</b>	<b>Amount Reimbursed by Missouri Medicaid</b>
Prucare	\$1,185,817.50	\$340,773.77	\$52,968.70	\$0.00
Procare	\$1,272,500.00	\$463,183.29	\$81,244.19	\$71,591.79
Cardinal	\$1,362,000.00	\$831,519.40	\$143,869.92	\$121,329.60
Quest	\$1,329,897.50	\$588,682.36	\$62,475.53	\$57,045.53
Xcellent	\$349,200.00	\$84,029.68	\$12,632.70	\$9,507.40
<b>Total</b>	<b>\$5,499,415.00</b>	<b>\$2,308,188.50</b>	<b>\$343,543.64</b>	<b>\$259,474.32</b>

### **XI. Federal Criminal Offenses**

150 Based on the aforementioned facts, affiant asks the court to conclude that there is probable cause to believe Rapahel C. Igbokwe, Kennedy A. Igbokwe, Godwin E. Iloka, Roland Godfrey, Amazair McAllister, and Ambrose Wotorson have engaged in a scheme to defraud Medicare by billing Medicare for DME equipment they did not supply or DME equipment which was supplied to Medicare beneficiaries when no medical necessity existed, in violation of 18 U.S.C. § 1347.

151 Affiant further asks that the Court issue warrants for the arrest of Rapahel C. Igbokwe, Kennedy A. Igbokwe, Godwin E. Iloka, Roland Godfrey, Amazair McAllister, and Ambrose Wotorson.

## XII. Related Proceedings

152 In addition to seeking warrants to arrest the above persons, the United States is simultaneously filing a separate action to obtain judicial authority to search various locations where the Court finds probable cause to believe that evidence of the crime of health care fraud is located.

[illegible]

Under penalty of perjury, I swear that the foregoing is true and correct to the best of my knowledge, information and belief.

/s/ Rebekah Wiles  
Rebekah Wiles  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me this 12<sup>th</sup> day of December, 2005.

/s/ Sarah W. Hays  
Hon. Sarah W. Hays  
United States Magistrate Judge